

# **Exhibit GG**

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

STEPHANIE CAPSOLAS, HERNAN RICARDO  
ALVARADO, JEFFREY CUTAIAR, NICOLE  
MEDVITZ, PAUL TORO, DANIEL JANSON,  
ROGER CARO, CHRIS ELL, CHRIS FORBES,  
JESSE PATRICK, and DIANA DIETRICH, on behalf  
of themselves and other similarly situated,

Plaintiffs,

v.

PASTA RESOURCES INC., BABBO LLC d/b/a  
BABBO RISTORANTE ENOTECA, PANE SARDO  
LLC d/b/a OTTO ENOTECA PIZZERIA, EL MONO  
LLC d/b/a CASA MONO and BAR JAMON, LA  
LOGGIA LLC d/b/a TARRY LODGE, MARIO  
BATALLI, and JOSEPH BASTIANICH,

Defendants.

DECLARATION OF  
JESSE PATRICK

I, Jesse Patrick, declare, upon personal knowledge and under penalty of perjury, pursuant to 28 U.S.C. Section 1746, that the following is true and correct:

1. I worked for Bar Jamon as a bartender from approximately June 2008 through approximately December 2009.

2. During my entire tenure at Bar Jamon I was paid hourly wages of less than the full minimum wage rate.

**NOTICE OF THE TIP CREDIT**

3. Throughout my employment, nobody at Bar Jamon ever informed me about the federal law regarding the tip credit. Nobody at Bar Jamon ever told me that I would be paid less than the minimum wage because I would receive tips or that my tips would be used as a credit against the minimum wage that Bar Jamon was required to pay me.

4. When I started working at Bar Jamon and during the entire course of my employment, nobody ever told me about the requirements that Bar Jamon had to meet in order to take a tip credit or showed me a copy of or a summary of any laws, rules, or regulations informing me of such requirements.

5. While working at Bar Jamon, I never saw any posters, signs, or notices regarding any law, rule, or regulation regarding the requirements that Bar Jamon had to meet in order to take a tip credit.

### **TIP SHARING**

6. During my employment at Bar Jamon, I was not allowed to retain all of the tips that I earned.

7. The restaurant kept a portion of the customer tips that I and other tipped food service workers earned. The amount that the restaurant kept was equal to approximately 4% of the wine sales for the shift.

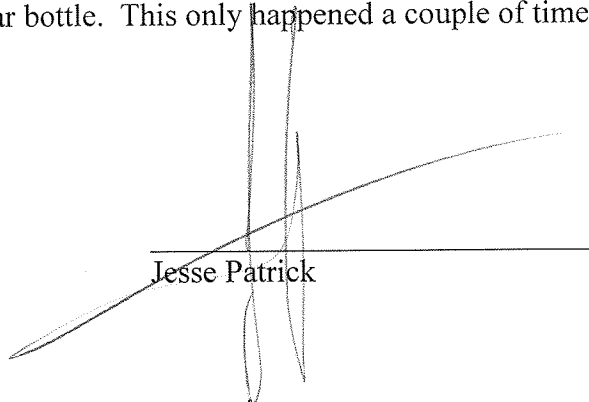
8. I know this because I often added up the tips for each shift and completed the tip sheets which showed that 4% of the wine sales for the shift were deducted from the tip pool for that shift. When I completed the tip sheets, I was required to pull up a report on the computer showing the total amount of the wine sales for the shift, take 4% of that number, and subtract the 4% number from the total credit card tips for the shift. The attached **Exhibit A** is a completed tip sheet that looks identical to the tip sheets that we used at Bar Jamon.

9. I do not know what happened to the 4%. When I started in 2008, the bartender who trained me, Juan Pablo Vicente, told me I had to accept the deductions for the “wine program.” I asked the general manager for both Bar Jamon and Casa Mono, Amy Clarke, about the practice but she never answered my questions. When I started in 2008, I also asked the wine

director for both Bar Jamon and Casa Mono, Lydia Tillman, whether she was getting the money, and she denied it. I asked her where the money went, and she told me she did not know.

10. Bar Jamon shares the same wine list and management as Casa Mono. However, the wine director for both restaurants did not regularly provide customer service at Bar Jamon. Generally, the other tipped food service workers at Bar Jamon and I talked to the customers about the wine, got the wine from the basement, and served the customers. Occasionally, I called Casa Mono to ask the wine director about a particular bottle of wine or to ask her to talk to customers at Bar Jamon about a particular bottle. This only happened a couple of times a month.

Dated: New York, New York  
~~September~~ <sup>1st</sup>, 2010  
October



Jesse Patrick

## DINNER

Day WEDNESDAY Date 5/28/08 Prepared by JRDN

BARTENDER	Charge Tips	Cash Tips
JRDN	581.21	68 —
Grand Total (cash + charge)		

WINE DEPARTMENT total wine sales 2632 X4% 105.28

Charge tip out 475.93

Bartender = 6 points

Food Back = 3 points

Bus = 2 points

BARTENDER	Charge Tip	Cash Tip
JRDN	259.59	37.41
FOOD BACK		
FORWARD	129.79	18.54
FLOOR BACK		
JAMES	86.53	12.36

WINE LISTS ACCOUNTED FOR (6)